

**BEFORE THE APPEALS BOARD  
FOR THE  
KANSAS DIVISION OF WORKERS COMPENSATION**

**WILLIAM JOHNSON**  
Claimant

VS.

**COASTAL REFINING & MARKETING**  
Respondent

AND

**CRAWFORD & COMPANY**  
Insurance Carrier

AND

# KANSAS WORKERS COMPENSATION FUND

[illegible]

Docket No. 201,754

## ORDER

The respondent and its insurance carrier requested review of the Award entered by Administrative Law Judge John D. Clark dated February 29, 1996. The Appeals Board heard oral argument on July 25, 1996.

## APPEARANCES

Claimant appeared by his attorney, Robert R. Lee of Wichita, Kansas. The respondent and its insurance carrier appeared by their attorney, Kurt W. Ratzlaff of Wichita, Kansas. The Workers Compensation Fund appeared by its attorney, Steven L. Foulston of Wichita, Kansas.

## RECORD & STIPULATIONS

The record considered by the Appeals Board and the parties' stipulations are listed in the Award.

### **ISSUES**

The Administrative Law Judge awarded claimant permanent partial disability benefits for a 25 percent binaural hearing impairment. The respondent and its insurance carrier asked the Appeals Board to review the following issues: (1) whether claimant sustained personal injury by accident during the period alleged, (2) whether claimant's injury arose out of and in the course of his employment with the respondent, (3) whether claimant filed timely written claim, and (4) whether claimant is entitled to unauthorized and future medical benefits.

During oral argument, the parties announced that the Workers Compensation Fund should be dismissed from this proceeding.

### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

After reviewing the entire record, the Appeals Board finds as follows:

The Award entered by the Administrative Law Judge should be affirmed. The Appeals Board agrees with the analysis, findings, and conclusions of the Administrative Law Judge and adopts same as its own.

(1)(2) The Appeals Board agrees with the Administrative Law Judge that the greater weight of the evidence establishes that claimant sustained hearing loss caused by his exposure to noise while at work during the final six months he worked for the respondent. Therefore, claimant's date of accident is found to be his last day of work for the respondent, May 1, 1994.

(3) Based upon the above finding of date of accident, the claim for compensation filed August 29, 1994 is timely as it was within 200 days of the date of accident as required by K.S.A. 44-520a.

(4) The Administrative Law Judge correctly determined that claimant was entitled to medical benefits under the Workers Compensation Act.

### **AWARD**

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the Award entered by Administrative Law Judge John D. Clark dated February 29, 1996, should be, and is hereby, affirmed.

Claimant is entitled medical expense consistent with the finding above, including future medical benefits upon proper application and approval by the director.

The Workers Compensation Fund is hereby dismissed from this proceeding.

All other orders contained in the Award are hereby adopted by the Appeals Board as if fully set forth herein.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of August 1996.

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BOARD MEMBER

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BOARD MEMBER

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BOARD MEMBER

c: Robert R. Lee, Wichita, KS  
Kurt W. Ratzlaff, Wichita, KS  
Steven L. Foulston, Wichita, KS  
John D. Clark, Administrative Law Judge  
Philip S. Harness, Director